



AZ POST ***INTEGRITY BULLETIN*** ***Volume No. 33***



The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **August and September 2007**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have.

August and September 2007

CASE NO. 1

INAPPROPRIATE TEXTING WITH AN EXPLORER

Officer A, a 43 year old advisor to the department's Explorer Post, engaged in a sexual relationship by text message with a 17 year old explorer. There was no physical sexual contact between the two, but they texted about the sex they were going to have when she turned 18 and he encouraged her to masturbate via text conversations and describe her actions to him. The explorer's parents discovered some of the messages, required their daughter to tell them who sent them and reported the matter to the department. Officer A admitted the messages were inappropriate but insisted he was just kidding. He resigned. The Board revoked his certification for malfeasance in office and conduct that tends to diminish public trust in the law enforcement profession.

CASE NO. 2

THEFT

Officer B submitted false invoices for off-duty work he did not perform. He was convicted of theft and the Board revoked his certification for committing an offense involving dishonesty.

CASE NO. 3

DISHONESTY

Officer C was a new officer, under supervision by a sergeant he did not work well with. The sergeant repeatedly returned his reports for corrections and additions. Under pressure to explain why he had not dusted for fingerprints at a burglary scene, Officer A wrote that the surfaces were too porous to dust for prints, when the truth was he looked for prints and could see no evidence of them, so he didn't attempt to dust. In a second incident, the sergeant demanded a clothing description on a FI card. In an attempt to satisfy the sergeant, Officer C wrote down a clothing description he thought seemed about right, even though he really did not recall what the contact was wearing. Officer C resigned. The department contacted AZ POST and asked for the Board to be lenient with the officer for mitigating reasons. The Board suspended certification for one year for malfeasance in office.

CASE NO. 4**DISHONESTY**

Officer D worked in rural Arizona where there are two tow companies. His department policy required rotating between the two companies, but Officer D much preferred one of the companies because it responded more quickly and he could get back on the road sooner. He was a friend to the owner of that company as well. The policy allowed an officer to take the companies out of order if the driver requested a company. Officer D marked several vehicle removal reports that the driver had requested his favored company when no such request had been made. Officer D entered into a consent agreement admitting the misconduct and submitting to a one year suspension of peace officer certification. The Board adopted the agreement.

CASE NO. 5**DISHONESTY**

Deputy E was working extra duty at the county fair when she inappropriately handled and displayed her taser, pointing the laser dot at a radio station employee. She later lied about the incidents to internal affairs investigators. Following a hearing before an independent administrative law judge, the Board adopted the Findings of Fact and Conclusions of Law and revoked her peace officer certification for malfeasance in office and conduct that diminished public trust in the law enforcement profession.

CASE NO. 6**MALFEASANCE**

Marshal F wrote a letter to a federal fugitive (his church leader) in which he sought direction from and acknowledged previous direction from the fugitive. The Marshal also refused to answer pertinent questions in a court ordered deposition related to his duties as a peace officer in connection with the property of a trust that had previously been controlled by the fugitive. Finally, the Marshal refused to answer questions of investigators with the Arizona Attorney General's Office seeking leads to locate the fugitive to whom he had written. The Board adopted the Findings of Fact and Conclusions of Law of an independent Administrative Law Judge and revoked his peace officer certification for malfeasance and conduct that tends to diminish public trust in the law enforcement profession.

CASE NO. 7**MALFEASANCE**

Deputy Marshal G refused to answer certain questions of Attorney General's Office Investigators relating to his communications with a federal fugitive and the identity of church leaders who might have knowledge of the fugitive's whereabouts. The fugitive is the officer's church leader. Deputy G also refused to say whether he would tell the investigators where the fugitive was if he knew where he was. Following a hearing before an independent Administrative Law Judge, the Board adopted the Findings of Fact and Conclusions of Law and revoked his peace officer certification for malfeasance and conduct that tends to jeopardize public trust in the law enforcement profession.

CASE NO. 8**ALCOHOL ON DUTY**

Investigator H reported to work with alcohol on his breath. A breath test indicated a blood alcohol level of .088 percent. The investigator resigned after being reminded of the agency's no tolerance policy on alcohol. The Board revoked his certification for malfeasance in office.

Officer I kept nearly 11,000 rounds of department ammunition and several department "flash-bangs" at his home despite written orders to keep no more than 200 rounds of department ammo at home. The officer lied to his supervisor about the "flash-bangs" and ammunition. Officer I requested a hearing before the Office of Administrative Hearings, but he did not show up on the hearing date. The POST Rule states that if an officer does not attend a hearing he requested, the Board may deem the allegations admitted. The Board did, and revoked his certification.

The Board adopted consent agreements calling for a voluntary relinquishment in the following fact situations. The scenario stated here reflects the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An officer provided false information in connection with reporting the criminal conduct of a fellow officer.
- An officer was dishonest to his chief and tried to tamper with a witness in his internal investigation.
- An applicant concealed information about a criminal investigation of which he was the subject and which caused him to lose his work as a deputy in another state.
- An officer engaged in "cybersex" with a minor female and lied about it.
- A deputy left his post and lied about having asked another deputy to cover for him.
- An officer engaged in sex on duty.
- An officer engaged in sex on duty and played an inappropriate prank by pretending to arrest someone.

The Board entered a mandatory revocation for a conviction of the following felonies:

None.

On August 15, 2007, and September 19, 2007, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the determination of how serious the misconduct was to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer wrote a report about a stop that did not contain all of the stop information.
- A sergeant failed to efficiently handle property and evidence, although none of it was left unsecured or lost.
- An officer inappropriately disseminated non-ACJIS arrest information.
- An investigator marked on a return of service that he had personally served a subpoena when he actually left it under the front door mat at the request of the subject of the subpoena.
- A specialty officer failed to accurately inspect vehicles and record their VINs.
- An officer violated department policy by leaving his assigned area for personal reasons while on duty.
- An officer, at the direction of his FTO, failed to complete a report to the satisfaction of his sergeant.

- An officer kissed and held hands with a citizen observer in his patrol car.